IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

C.M.A. No.2537 of 2006
and
M.P. No.3 of 2006

National Insurance Company Limited,
Branch Office,
No.2,P.A.Yanaikkal Veedhi,
Hotel President Building, Madurai. .. Appellant/2nd Respondent

-vs-

1.Vasantha Kogilam
2.Kumudavalli
3.Jothilakshmi
4.Venkataraman
5.Gunasekaran
6.Jayashree (Minor rep.by her mother
and guardian Vasantha Kogilam) .. Respondents/Petitioners 1 to 6

7.M.P.Jeyaraja .. Respondents/1st Respondent No.7

Civil Miscellaneous Appeal under Section 173 of The Motor Vehicles Act 1988 against the decree and judgment passed in MACTOP No.1284 of 1999, dated 08.07.2004 on the file of the Motor Accidents Claims Tribunal, Tiruppur, (Additional District Judge, Fast Track Court No.V, Tiruppur).

For Appellant : Ms.N.B.Surekha
For Respondents : Mr.S.S.Swaminathan

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J U D G M E N T

Aggrieved by the award of the Motor Accidents Claims Tribunal, Tiruppur, the National Insurance Company Limited, Madurai, has filed the present appeal.

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2. In respect of death of one Srinivasan in a motor vehicle accident that took place on 17.05.1999, respondents 1 to 6 herein-claimants prayed for a compensation of Rs.5,00,000/-. The Tribunal, on appreciation of oral and documentary evidence, after finding that the accident was caused due to the negligence of the driver of the vehicle concerned, passed an award for Rs.4,25,352/- with interest at the rate of 9% per annum.

3. At the outset, learned counsel for the appellant fairly states that they are mainly aggrieved only with regard to the quantum determined by the Tribunal. In such circumstances, it is unnecessary for this Court to go into the other aspects.

4. As per the evidence of P.W.1, who is none else than the wife of the deceased, her husband was working as a poojari in a temple as well as a post master in a post office, earning a sum of Rs.4,000/- per month. P.W.2, one Nachimuthu supports her claim to the effect that the deceased viz., Srinivasan was a poojari in a temple and getting an income of Rs.2,000/- per month. He also stated that for the last 30 years, he was performing poojas at the said temple. As rightly observed by the Tribunal, there is no reason to disbelieve the evidence of P.W.2.

5. One Arumugam who was examined as P.W.4, at present working as a Post Master in Tharapuram Gate Post Office, Periyar District has stated that at the time of the accident, the deceased was working as a Post Master. He also stated that the deceased joined the service as Post Master on 01.11.1963 and he could continue his service up to 65 years.

6. The Salary Certificate which has been marked as Ex.P.5 shows that the deceased was getting a salary of Rs.2,104/- per month as a Post Master. Taking note of all these aspects, the Tribunal rightly accepted that the deceased was getting a total income of Rs.4004/- on the date of the accident. After allowing a deduction to the extent of 1/3rd and by applying a multiplier of 11, the Tribunal fixed pecuniary loss to the family of the deceased at Rs.3,52,352/-. The Post Mortem Certificate-Ex.P.2 shows that the deceased was aged about 55 years. In such circumstances, it is not in dispute that the proper multiplier to be applied is 11 and the same has been correctly applied by the Tribunal. In addition to the pecuniary loss, the Tribunal has granted Rs.20,000/- towards loss of love and affection and consortium to the first claimant-wife of the deceased and Rs.10,000/- each in favour of claimants 2 to 6 towards loss of love and affection. After adding Rs.3,000/- towards funeral expenses, the Tribunal passed an award for Rs.4,25,352/-.

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7. Considering the evidence of P.W.1, P.W.2, P.W.4 coupled with the Salary Certificate-Ex.P.5 and also the fact that the deceased died at the age of 55 and has left a very big family consisting of the wife and five children, I am of the view that the amount determined by the Tribunal is just and reasonable and there is no valid ground for interference. Accordingly, the appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

gms

To

1. The Motor Accidents Claims Tribunal, Tiruppur,
(Additional District Judge,
Fast Track Court No.V) Tiruppur.

1 cc To M/S.N.B.Surekha, Advocate, SR.41065.
1 cc To M/S.S.Swaminathan, Advocate, SR.41127.

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MS(CO)
RVL 14.11.2006

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